



Kansas Administrative Regulations
Kansas Department of Health and Environment

Notice to Reader

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Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

Nothing contained herein should be construed as legal advice by KDHE. If you are not an attorney, you should secure competent counsel to interpret the regulations and advise you.

Office of Public Information
Kansas Department of Health & Environment

Notes

The *Kansas Register* notes the following changes:

sided cargo area which shall be completely covered with six-mil thick plastic sheeting or other equivalent covering while the waste is being transported. All visible debris remaining in the vehicle cargo area after the waste has been deposited at the disposal area shall be immediately removed by wet cleaning methods and disposed of in accordance with the requirements of this subsection.

(7) The waste generator shall remain responsible for storage, transport and disposal of the waste in accordance with this subsection until the time that the waste is delivered to and accepted by the operator of an approved waste disposal site. The waste generator shall be released from further responsibility for handling of the waste when the disposal site operator acknowledges, in writing, that the delivered waste has been properly identified as friable asbestos-containing material and has been delivered in a manner and condition that is acceptable to the disposal site operator.

(b) Wastewater and other liquid waste that contains friable asbestos-containing materials that result from an asbestos removal project, an asbestos encapsulation project, or an asbestos-related maintenance, dismantling or demolition operation may be disposed of by mixing them with solid waste materials and disposing of the mixture in accordance with the requirements of subsection (a) of this regulation. Wastewater that cannot be handled in this manner shall be disposed of by one of the following methods:

(1) Wastewater from decontamination showers and final cleanup of waste containers and equipment may be disposed of in public sewer systems either by discharge into the plumbing system where the waste is generated, or by storing the waste and discharging it directly into the sewer system at a location designated by the operator of the system. The wastewater shall be free of any material that is likely to cause stoppage in the plumbing or sewer systems.

(2) Discharge of any other asbestos-contaminated wastewater or liquid waste or the use of any other method for the disposal of contaminated liquid wastes shall only be at a location and in a manner specifically approved by the department in writing. (Authorized by and implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991.)

Article 51.—HOME HEALTH AGENCY LICENSURE

28-51-1 to 28-51-99. **Reserved.**

28-51-100. **Definitions.** (a) “Administrator” means a person who has training and experience in health services administration and at least one year of supervisory or administrative experience in health care, or an appropriate qualified health professional.

(b) “Admission note” means a dated notation that is written by a professional member of the health team after the initial assessment of a patient and that documents the relevant diagnoses, the patient’s health history, environmental, safety, and social factors of the patient’s home, the patient’s nutritional requirements, medications, and treatments, and the patient’s physical and mental levels of functioning.

(c) “Appropriate qualified health professional” means a physician, a registered nurse, a physical therapist, an occupational therapist, a respiratory therapist, a speech therapist, a dietitian, or a social worker.

(d) “Branch office” means a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office shall be part of the home health agency and shall be located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch to independently meet the conditions of licensure as a home health agency. Each branch office shall be within 100 miles of the parent agency.

(e) “Bylaws” means a set of rules adopted by a home health agency for governing the agency’s operation.

(f) “Clinical record” means a legal document containing facts which:

(1) Provide a basis for planning and implementing the patient’s care program;

(2) indicate the patient’s status and response to treatment;

(3) serve as a record of communication for the professional groups responsible for the patient’s care; and

(4) serve as a repository of data which can be used to review and evaluate the care provided.

(g) “Dietitian” means a person who is licensed by the Kansas department of health and environment as a dietitian.

(h) "Discharge summary report" means a concise statement, signed by the appropriate health care giver, reflecting the care, treatment, and response of the patient in accordance with the patient's plan of care, and final disposition at the time of discharge.

(i) "Home health aide" means an individual who has a home health aide certificate issued by the licensing agency pursuant to K.A.R. 28-39-171.

(j) "Home health aide trainee" means an individual who is in the process of completing a home health aide training program as prescribed in K.A.R. 28-39-171 or K.A.R. 28-39-173 and has not been issued a home health aide certificate by the licensing agency.

(k) "Licensing agency" means the Kansas department of health and environment.

(l) "Occupational therapist" means a person who meets the definition of an occupational therapist under 42 CFR 484.4 as in effect on August 14, 1989.

(m) "Occupational therapist assistant" means a person who meets the definition of an occupational therapy assistant under 42 CFR 484.4, as in effect August 14, 1989.

(n) "Parent home health agency" means a home health agency that develops and maintains administrative control of subunits or branch offices or both.

(o) "Physical therapist" means a person who is registered with the Kansas board of healing arts as a physical therapist.

(p) "Physical therapist assistant" means a person who is certified by the Kansas board of healing arts as a physical therapist assistant.

(q) "Physician" means a person licensed in Kansas or an adjoining state to practice medicine and surgery.

(r) "Plan of care" means a plan based on the patient's diagnosis and the assessment of the patient's immediate and long range needs and resources. The plan of care is established in consultation with the home health services team which may include the physician, pertinent members of the agency staff, the patient, and members of the patient's family. If the plan of care includes procedures and services which, according to professional practice acts, require a physician's authorization, the plan of care shall be signed by a physician and shall be renewed every 62 days.

(s) "Progress note" means a dated, written notation by a member of the home health services

team summarizing the facts about the patient's care and response during a given period of time.

(t) "Registered nurse" means a person who is licensed by the Kansas state board of nursing as a registered professional nurse.

(u) "Respiratory therapist" means a person who has been registered by the national board of respiratory therapy or who is a graduate of a respiratory therapist program approved by the council on medical education of the American medical association.

(v) "Social worker" means a person who is licensed by the Kansas behavioral sciences regulatory board as a social worker.

(w) "Speech therapist" means a person who:

(1) Prior to January 1, 1994, meets the definition of a speech pathologist under 42 CFR 484.4, as in effect on August 14, 1989; and

(2) after January 1, 1994, is licensed by the Kansas department of health and environment as a speech-language pathologist.

(x) "Summary report" means a concise statement, signed by the appropriate health care giver, that reflects the care and treatment given and the response by the patient.

(y) "Supervision" means authoritative procedural guidance which is given by a qualified person of the appropriate discipline. Supervision includes initial direction and periodic inspection of the act of accomplishing the function or activity. (Authorized by and implementing K.S.A. 65-5109; effective, T-86-23, July 1, 1985; amended May 1, 1987; amended Feb. 28, 1994.)

28-51-101. **Licensing procedure.** (a) License application. Each application for an initial home health agency license shall be filed on forms provided by the licensing agency before the agency begins treating patients. A license shall remain in effect unless suspended or revoked by the licensing agency.

(b) Annual report and fees. Each licensed agency shall file an annual report and annual fee upon uniform dates and forms provided by the licensing agency.

(c) Change of administrator. Each licensee shall notify the licensing agency, in writing, within five days following the effective date of a change of administrator. The notification shall include the name, address, and qualifications of the new administrator.

(d) New services. Each licensee shall notify the licensing agency whenever it begins offering a new service covered under these regulations.

(e) Change of address or name. Each licensee shall notify the licensing agency, in writing, within five days following the change of address or name of the home health agency. The home health agency shall forward the previously issued license certificate to the licensing agency with a request for an amended license certificate reflecting the new address.

(f) Change of ownership. Each home health agency involved in a change of ownership shall comply with the provisions of K.S.A. 65-5104(e).

(g) Plan of correction. A license shall be granted if:

(1) The applicant is found to be in substantial compliance with these regulations; and

(2) the applicant submits an acceptable plan for correcting any deficiencies cited.

(h) Annual statistical report. Each home health agency shall submit an annual statistical report. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5103, 65-5104, and 65-5106; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

28-51-102. License fee. (a) Each initial license application for an agency shall be accompanied by a fee in the amount of \$100.00.

(b) The annual report for each licensed agency shall be accompanied by a fee determined in accordance with the following schedule. The visits shall be all those performed by the agency during the calendar year prior to submittal of the annual report.

| <i>Visits</i> | <i>Fee</i> |
|---------------|------------|
| 0-500 | \$ 25.00 |
| 501-1,000 | 60.00 |
| 1,001-2,000 | 120.00 |
| 2,001-3,000 | 170.00 |
| 3,001-4,000 | 220.00 |
| 4,001-5,000 | 280.00 |
| 5,001-6,000 | 330.00 |
| 6,001-7,000 | 380.00 |
| 7,001-8,000 | 440.00 |
| 8,001-10,000 | 490.00 |
| 10,001-20,000 | 550.00 |
| Over 20,000 | 580.00 |

(c) If an agency performs services on an hourly basis, four hours of service shall be considered the equivalent of one visit. All home visits made by

county or regional public health department personnel that are public health services, as determined by the secretary of health and environment, shall not be required to be included in the number of visits used to determine the annual fee. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5103; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

28-51-103. Organization and administration. (a) Governing body. Each home health agency shall have a governing body or a clearly defined body having legal authority to operate the agency. The governing body shall:

(1) Have bylaws or their equivalent which shall be renewed annually;

(2) employ a qualified administrator as defined in K.A.R. 28-51-100(a);

(3) adopt, revise, and approve procedures for the operation and administration of the agency as needed;

(4) provide the name and address of each officer, director, and owner of the agency to the licensing agency;

(5) disclose corporate ownership interests of 10 percent or more to the licensing agency; and

(6) disclose past home health agency ownership or management, including the name of the agency, its location, and current status, to the licensing agency.

(b) Administrator. The administrator shall be responsible for the management of the agency to the extent authority is delegated by the governing body. A qualified person shall be designated to act in the absence of the administrator. The administrator shall have at least the following responsibilities:

(1) Organize and direct the agency's ongoing functions;

(2) act as a liaison between the governing body and staff;

(3) employ qualified personnel in accordance with job descriptions;

(4) provide written personnel policies and job descriptions that are made available to all employees;

(5) maintain appropriate personnel records, administrative records, and all policies and procedures of the agency;

(6) provide orientation for new staff, regularly scheduled inservice education programs, and opportunities for continuing education of the staff;

(7) ensure the completion, maintenance, and submission of such reports and records as required by the secretary of health and environment; and

(8) ensure that each patient admitted to the home health agency receives, in writing, the patient's bill of rights listed at K.A.R. 28-51-111.

(c) Personnel records. Current personnel records shall be maintained for each employee. The personnel records for an employee shall include:

(1) The title of that employee's position and a description of the duties and functions assigned to that position;

(2) the qualifications for the position;

(3) evidence of licensure or certification if required;

(4) performance evaluations made within six months of employment and annually thereafter;

(5) documentation of reference checks and a personal interview prior to employment; and

(6) evidence of good general health and a negative tuberculin skin test or chest X-ray upon employment. Subsequent periodic health assessments or physical examinations shall be given in accordance with agency policies.

(d) Personnel under hourly or per visit contracts. There shall be a written contract between the agency and personnel under hourly or per visit arrangements. The contract shall include the following provisions:

(1) A statement that patients are accepted for care only by the primary home health agency;

(2) a description of the services to be provided;

(3) a statement that each employee shall conform to all applicable agency policies, including those related to qualifications;

(4) a statement that the employee shall be responsible for participating in the development of plans of care;

(5) a description of the manner in which services will be controlled, coordinated, and evaluated by the primary agency;

(6) the procedures for submitting clinical and progress notes, scheduling patient care, and conducting periodic patient evaluations; and

(7) the procedures for determining charges and reimbursement.

(e) Abuse, neglect, or exploitation. Each employee of the agency shall be responsible for reporting in accordance with agency policies and K.S.A. 39-1430 et. seq., and amendments thereto, any evidence of abuse, neglect, or exploitation of any patient served by the agency. (Authorized by

K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

28-51-104. Home health services. (a) General provisions. Each home health agency shall accept a patient only when the agency reasonably expects that the patient's medical, rehabilitation, and social needs can be met adequately by the agency in the patient's place of residence.

(b) Provision of services.

(1) Patient care shall follow a written plan which is periodically reviewed by the supervising nurses or other appropriate health professionals.

(2) All personnel providing services to the same patient shall maintain a liaison with the supervising professional to assure that their efforts effectively complement one another and support the objectives as outlined in the plan of care.

(3) For each patient receiving professional services, including the services of a registered nurse, physical therapy, occupational therapy, speech therapy, and dietary consultation, a written summary report shall be sent to the attending physician every 62 days. Services under arrangement with another agency shall be subject to a written contract conforming to these requirements.

(4) A registered nurse shall be available or on call to the staff during all hours that nursing or home health aide services are provided.

(c) Supervision of home health aide services.

(1) A physician, a registered nurse, or an appropriate qualified health professional shall visit each patient's home every two weeks to supervise home health aide services when skilled nursing or other therapy services, or both are also being furnished to a patient.

(2) This visit may be made less often if only home health aide services are being furnished to a patient and this is documented in the clinical record. A supervisory visit shall then be made at least every 60 days. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

28-51-105. Nursing services. (a) Nursing services shall be provided under the supervision of a registered nurse and in accordance with a plan of care.

(b) A registered nurse shall make an initial evaluation visit to each patient, shall regularly reevaluate the patient's nursing needs, and shall

initiate the patient's plan of care and make any necessary revisions. (Authorized by K.S.A. 1984 Supp. 65-5109, as amended by 1985 H.B. 2468; implementing K.S.A. 1984 Supp. 65-5104, as amended by 1985 H.B. 2468; effective, T-86-23, July 1, 1985; effective May 1, 1986.)

28-51-106. Therapy services. (a) Therapy services offered directly or under arrangement shall be provided by the following:

- (1) A physical therapist;
- (2) A physical therapist assistant functioning under the supervision of a physical therapist;
- (3) An occupational therapist;
- (4) An occupational therapist assistant functioning under the supervision of an occupational therapist;

- (5) A speech therapist; or
- (6) A respiratory therapist.

(b) The therapist shall make an evaluation visit to each patient requiring services, shall regularly reevaluate the patient's therapy needs, and shall initiate the patient's therapy plan of care and make any necessary revisions. (Authorized by K.S.A. 1984 Supp. 65-5109, as amended by 1985 H.B. 2468; implementing K.S.A. 1984 Supp. 65-5104, as amended by 1985 H.B. 2468; effective, T-86-23, July 1, 1985; effective May 1, 1986.)

28-51-107. Social services. (a) Services shall be given by a social worker according to the patient's plan of care.

(b) The social worker shall participate in the development of the patient's plan of care. (Authorized by K.S.A. 1984 Supp. 65-5109, as amended by 1985 H.B. 2468; implementing K.S.A. 1984 Supp. 65-5104, as amended by 1985 H.B. 2468; effective, T-86-23, July 1, 1985; effective May 1, 1986.)

28-51-108. Home health aide services. (a) Each home health aide shall be supervised by a registered nurse and shall be given written instructions for patient care prepared by an appropriate, qualified health professional.

(b) A home health aide shall not perform acts beyond the scope of the "Kansas 90-hour home health aide curriculum" as established under K.A.R. 28-39-171, unless specific and adequate training has been given and documented by the attending physician or supervising registered nurse. (Authorized by and implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective

May 1, 1986; amended March 12, 1990; amended Feb. 28, 1994.)

28-51-109. Nutritional and dietary consultation. (a) Nutritional and dietary consultation services offered directly or under arrangement shall be given in accordance with the written plan of care.

(b) If nutritional services are provided, a dietitian shall evaluate the nutritional needs of each patient requiring such services and shall participate in developing the plan of care for that patient. (Authorized by K.S.A. 1984 Supp. 65-5109, as amended by 1985 H.B. 2468; implementing K.S.A. 1984 Supp. 65-5104, as amended by 1985 H.B. 2468; effective, T-86-23, July 1, 1985; effective May 1, 1986.)

28-51-110. Clinical records. (a) General provisions. A clinical record containing pertinent past and current findings shall be maintained in accordance with accepted professional standards for each patient receiving home health services.

(b) Content of record. Each patient's clinical record shall contain at least the following:

- (1) The patient's plan of care;
- (2) the name of the patient's physician;
- (3) drug, dietary, treatment, and activity orders;
- (4) signed and dated admission and clinical notes that are written the day the service is rendered and incorporated at least weekly;
- (5) copies of summary reports sent to the physician;
- (6) copies of progress notes; and
- (7) the discharge summary.

(c) Retention. Clinical records shall be retained in a retrievable form for at least five years after the date of the last discharge of the patient. If the home health agency discontinues operation, provision shall be made for retention of records.

(d) Safeguard against loss or unauthorized use. Written policies and procedures shall be developed regarding use and removal of records and the conditions for release of information. The patient's or guardian's written consent shall be required for release of information not required by law. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

28-51-111. Patients' bill of rights. The governing body shall establish a bill of rights that

will be equally applicable to all patients. At a minimum, the following provisions shall be included in the patients' bill of rights.

(a) Each patient shall have the right to choose care providers and the right to communicate with those providers.

(b) Each patient shall have the right to participate in planning of the patient's care and the right to appropriate instruction and education regarding the plan.

(c) Each patient shall have a right to request information about the patient's diagnosis, prognosis, and treatment, including alternatives to care and risks involved, in terms that the patient and the patient's family can readily understand so that they can give their informed consent.

(d) Each patient shall have the right to refuse home health care and to be informed of possible health consequences of this action.

(e) Each patient shall have the right to care that is given without discrimination as to race, color, creed, sex, or national origin.

(f) Each patient shall be admitted for service only if the agency has the ability to provide safe, professional care at the level of intensity needed.

(g) Each patient shall have the right to reasonable continuity of care.

(h) Each patient shall have the right to be advised in advance of the disciplines that will furnish care and the frequency of visits proposed to be furnished.

(i) Each patient shall have the right to be advised in advance of any change in the plan of care before the change is made.

(j) Each patient shall have the right to confidentiality of all records, communications, and personal information.

(k) Each patient shall have the right to review all health records pertaining to them unless it is medically contraindicated in the clinical record by the physician.

(l) Each patient denied service for any reason shall have the right to be referred elsewhere.

(m) Each patient shall have the right to voice grievances and suggest changes in services or staff without fear of reprisal or discrimination.

(n) Each patient shall have the right to be fully informed of agency policies and charges for services, including eligibility for, and the extent of payment from third-party reimbursement sources, prior to receiving care. Each patient shall be informed of the extent to which payment may be required from the patient.

(o) Each patient shall have the right to be free from verbal, physical, and psychological abuse and to be treated with dignity.

(p) Each patient shall have the right to have his or her property treated with respect.

(q) Each patient shall have the right to be advised in writing of the availability of the licensing agency's toll-free complaint telephone number. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

28-51-112. Home health aide training program. (a) Each individual employed or contracted by a home health agency who is not licensed or professionally registered to provide home health services but who assists, under supervision, in the provision of home health services and who provides related health care to patients shall meet the training requirements of K.A.R. 28-39-171 through K.A.R. 28-39-174.

(b) This provision does not include individuals providing only attendant care services as defined at K.S.A. 65-6201 and amendments thereto. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994.)

Article 52.—MEDICAL CARE FACILITIES

28-52-1. General requirements. (a) Each medical care facility shall establish a written plan for risk management and patient care quality assessment on a facility-wide basis.

(b) The plan shall be approved and reviewed annually by the facility's governing body.

(c) Findings, conclusions, recommendations, actions taken, and results of actions taken shall be documented and reported through procedures established within the risk management plan.

(d) All patient services including those services provided by outside contractors or consultants shall be periodically reviewed and evaluated in accordance with the plan.

(e) Plan format. Each submitted plan shall include the following:

(1) Section I—a description of the system implemented by the facility for investigation and analysis of the frequency and causes of reportable incidents within the facility;

(2) Section II—a description of the measures used by the facility to minimize the occurrence of reportable incidents and the resulting injuries within the facility;